

AMENDED IN SENATE APRIL 4, 2005

**SENATE BILL**

**No. 441**

**Introduced by Senator Soto**

February 17, 2005

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An act to add Section 739.11 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 441, as amended, Soto. Electricity: rates.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires electrical corporations furnishing electricity to an agricultural producer to prepare and file tariffs providing for optional off-peak demand service, including the availability of time-differentiating meters or other measurement devices.

This bill would, with certain exceptions, ~~provide that no~~ *prohibit the commission from authorizing or requiring the installation of advanced metering infrastructure for a residential or small commercial customer of an electrical corporation with average annual electricity usage of less than 1,000 kilowatthours per month and occupying a building that was constructed prior to January 1, 2005, may be required to take service under a time-differentiated rate schedule unless certain findings are made by the commission. The bill would authorize an electrical corporation to recover the expenses for advanced metering infrastructure for residential and small commercial customers, only if, and to the extent that, those expenses are offset by equal or greater cost reductions that are passed through in rates to consumers as a result of the use of advanced metering infrastructure. The bill would,*

*with certain exceptions, prohibit specified residential or small commercial customers from being placed on a default time-differentiated rate schedule without the customer's affirmative written consent.*

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the provisions of this bill would be a part of the act, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*

3     *(a) The Public Utilities Commission is currently considering*  
4     *authorizing or requiring electrical corporations to install*  
5     *advanced metering infrastructure (AMI) for their customers,*  
6     *including all existing residential and small commercial*  
7     *customers, regardless of their size or location. One electrical*  
8     *corporation has requested authority to spend fifty million dollars*  
9     *(\$50,000,000) in 2005 in order to prepare to start AMI meter*  
10    *installations in early 2006.*

11    *(b) AMI includes the installation of interval data recording*  
12    *meters as well as two-way communications equipment. AMI*  
13    *technology requires more advanced and costly equipment than*  
14    *the equipment necessary to provide time of use billing, to conduct*  
15    *automated meter reading, or to provide direct load control of*  
16    *customer equipment.*

17    *(c) The replacement or retrofit of millions of small customers'*  
18    *meters statewide with AMI will cost billions of dollars, which*  
19    *electrical corporations will seek to recover in rates. The*  
20    *investment in communications equipment may become stranded*

1 *if electrical corporations decide to deploy broadband over power*  
2 *lines at a later date.*

3 *(d) The commission has not conducted any evidentiary*  
4 *hearings to determine whether universal deployment of AMI for*  
5 *small customers will be cost effective for ratepayers. The claimed*  
6 *benefits of AMI include operational benefits, including outage*  
7 *detection and reduced meter reading costs, as well as reduced*  
8 *costs of generation due to the shifting of peak load periods. The*  
9 *claimed operational benefits alone have not been sufficient to*  
10 *justify the costs of AMI, and may be achievable through cheaper*  
11 *technologies. Further, residential peak load reductions may be*  
12 *achievable in a more cost effective and reliable manner through*  
13 *direct load control programs, appliance efficiency standards,*  
14 *and conservation measures. The commission has not examined*  
15 *these alternatives in an evidentiary hearing.*

16 *(e) The results of the statewide pricing pilot program in 2003*  
17 *and 2004, show that California residential customers have the*  
18 *lowest price responsiveness of any reported in the literature, and*  
19 *lower than existed in California 25 years ago. This result is*  
20 *consistent with the fact that California residential customers use*  
21 *only about 61 percent of the national average for residential*  
22 *electricity consumption, and only residents in hot climate zones*  
23 *with significant air conditioner use can shift substantial*  
24 *electricity usage in response to higher prices during hot summer*  
25 *afternoon hours of peak electricity usage.*

26 *(f) The commission should not authorize or require the*  
27 *installation of AMI on existing buildings occupied by residential*  
28 *or small commercial customers with an annual average usage of*  
29 *less than 1,000 kilowatthours per month unless it first finds,*  
30 *based on clear and convincing evidence, that the installation of*  
31 *AMI will result in average electricity or generation rates for the*  
32 *residential and small commercial classes that are lower than*  
33 *they otherwise would have been absent the installation of AMI.*

34 *(g) No small customer occupying a building that was*  
35 *constructed prior to January 1, 2005, should be placed on a*  
36 *default time-differentiated rate schedule without the customer's*  
37 *informed written consent.*

38 **SECTION 1.**

39 **SEC. 2.** Section 739.11 is added to the Public Utilities Code,  
40 to read:

1 739.11. Except for customers participating in a pilot program  
2 authorized by Section 393 and customers with distributed energy  
3 resources that participate in a real-time metering and pricing  
4 program pursuant to Section 353.3, no residential or small  
5 commercial customer of an electrical corporation with average  
6 usage of less than 1,000 kilowatthours per month and occupying  
7 a building that was constructed prior to January 1, 2005, shall be  
8 required to take service under a time-differentiated rate schedule.

9 ~~SEC. 2.~~ (a) Except as provided in Sections 393 and 353.3,  
10 the commission shall not authorize or require the installation of  
11 advanced metering infrastructure for buildings constructed prior  
12 to January 1, 2005, and occupied by residential or small  
13 commercial customers with annual average usage of less than  
14 1,000 kilowatthours per month, unless it first finds, based upon  
15 clear and convincing evidence, all of the following:

16 (1) The installation of advanced metering infrastructure will,  
17 over the following five year periods, result in average electricity  
18 or generation rates for residential and small commercial  
19 customer classes that are lower than they would be without the  
20 installation of advanced metering infrastructure.

21 (2) The deployment of advanced metering infrastructure will  
22 result in more cost-effective peak load reduction than other  
23 alternatives, including air conditioner cycling programs and  
24 appliance efficiency standards.

25 (3) The communications technology proposed to be used in  
26 providing advanced metering infrastructure is the most  
27 cost-effective alternative in comparison with other technologies,  
28 including broadband over power lines.

29 (4) A program of universal deployment of advanced metering  
30 infrastructure throughout an entire service territory of an  
31 electrical corporation is more cost effective than partial  
32 deployment in selected climate zones.

33 (b) Expenses for owning, installing, or maintaining advanced  
34 metering infrastructure for residential and small commercial  
35 customers may only be included in the rates of an electrical  
36 corporation if, and to the extent that, those expenses are offset by  
37 equal or greater cost reductions that are passed through in rates  
38 to consumers as a result of the use of advanced metering  
39 infrastructure.

1     (c) *Except for customers participating in a pilot program*  
2     *authorized by Section 393 and customers with distributed energy*  
3     *resources that participate in a real-time metering and pricing*  
4     *program pursuant to Section 353.3, no residential or small*  
5     *commercial customer of an electrical corporation with an*  
6     *average annual usage of less than 1,000 kilowatthours per month*  
7     *and occupying a building that was constructed prior to January*  
8     *1, 2005, shall be placed on a default time-differentiated rate*  
9     *schedule without that customer's affirmative written consent*

10    SEC. 3. No reimbursement is required by this act pursuant to  
11    Section 6 of Article XIII B of the California Constitution because  
12    the only costs that may be incurred by a local agency or school  
13    district will be incurred because this act creates a new crime or  
14    infraction, eliminates a crime or infraction, or changes the  
15    penalty for a crime or infraction, within the meaning of Section  
16    17556 of the Government Code, or changes the definition of a  
17    crime within the meaning of Section 6 of Article XIII B of the  
18    California Constitution.